

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

C.A. NO. 1:13-cv-10469-RGS

MICHAEL WESSON; THOMAS WOODS;  
and COMMONWEALTH SECOND  
AMENDMENT, INC.,

Plaintiffs

v.

TOWN OF SALISBURY, a Municipal  
Corporation; THOMAS FOWLER, Chief of  
the Town of Salisbury Department of Police;  
TOWN OF NATICK, a Municipal  
Corporation; JAMES HICKS, Chief of the  
Town of Natick Department of Police,

Defendants

And

THE COMMONWEALTH OF  
MASSACHUSETTS

Intervenor Defendant

JOINT ASSENTED-TO MOTION TO  
ENLARGE TIME FOR TOWN OF  
SALISBURY AND TOWN OF  
NATICK DEFENDANTS TO OPPOSE  
PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT/CROSS-  
MOVE FOR SUMMARY JUDGMENT

Now come defendants, Town of Salisbury, Chief of Police for the Town of Salisbury Thomas Fowler, the Town of Natick and Chief of Police for the Town of Natick James Hicks (collectively the "Town Defendants"), with the plaintiffs and defendant/intervenor Commonwealth of Massachusetts' assent, and hereby respectfully request that the time to file their Oppositions to Plaintiffs' Motion for Summary Judgment/Cross-Motions for Summary Judgment be enlarged until fourteen (14) days following the filing of the Commonwealth of Massachusetts' Opposition to Plaintiffs' Motion for Summary Judgment.

As grounds for this Motion, the Town Defendants state as follows:

1. A Complaint in the above-captioned case was filed on March 1, 2013. An Amended Complaint was also filed on March 1, 2013.
2. The Complaint seeks injunctive and declaratory relief against the Town Defendants challenging their denial of licenses to carry firearms under the Second and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. §1983. (Amended Complaint, ¶1). Specifically, the plaintiffs allege that the Town Defendants' actions denied them of their right to possess and purchase a firearm in their homes for self-defense as protected by the Second and Fourteenth Amendments to the U.S. Constitution and that the Massachusetts Firearms Licensing Statute, G.L. c. 140, §§131 and 131A, (hereinafter "Firearms Licensing Statute") violates the Second and Fourteenth Amendments to the U.S. Constitution. (Amended Complaint, ¶¶35, 47).
3. The Town Defendants maintain that their actions in denying the plaintiffs' licenses to carry based on their prior criminal convictions were entirely lawful and in compliance with the Firearms Licensing Statute, which is constitutional.
4. Since the plaintiffs challenge the constitutionality of the Firearms Licensing Statute, on October 15, 2013, the Commonwealth of Massachusetts ("Commonwealth") moved pursuant to 28 U.S.C. §2403(b) and Fed.R.Civ.P. 24(a)(1) to intervene as of right to defend the statute's constitutionality and has answered the Complaint. (Docket Entries 22-23).
5. The Court allowed the Commonwealth's Motion to Intervene on October 17, 2013.
6. The parties all agree that the matters before this Court are amenable to resolution as a matter of law pursuant to dispositive motion practice.

7. Accordingly, in compliance with the Court's schedule, the plaintiffs intend to move for summary judgment on or before March 3, 2013.
8. Thereafter, the Commonwealth will oppose the plaintiffs' Motion and request summary judgment with respect to the constitutional challenges before the Court.
9. In an effort to maximize judicial economy and conserve the limited resources of the Town Defendants, who acted under the requirements of state law, the Town Defendants intend to leave the primary defense of the constitutionality of the Firearms Licensing Statute to the Commonwealth, as asserted in the Motion to Intervene.
10. Although they intend to leave the primary defense to the Commonwealth, the Town Defendants request an opportunity to review the arguments of the other parties and to evaluate whether separate, individual responses are required. As such, the Town Defendants request that the Court permit them a brief enlargement to the summary judgment deadlines to allow any further opposition/cross-motions for summary judgment to be filed fourteen (14) days following the briefing by the defendant/intervenor Commonwealth. This schedule, which is agreed to by all parties, will allow the plaintiffs and the Commonwealth to fully brief the issues before this Court and permit the Town Defendants to respond or supplement the briefing only as necessary to facilitate a complete review by the Court.
11. No party will be prejudiced by the within Motion, as the plaintiffs and Commonwealth have assented to this schedule, and the allowance of the Motion will not otherwise alter any dates currently set by the Court.

WHEREFORE, the Town Defendants respectfully request that the time to file their Oppositions/Cross-Motions for Summary Judgment, if any, be enlarged to fourteen (14) days following the filing of the Commonwealth of Massachusetts' Opposition to Plaintiffs' Motion for Summary Judgment.

DEFENDANTS,

TOWN OF NATICK, a municipal corporation;  
JAMES HICKS, Chief of the Town of Natick  
Department of Police

By their attorney,

/s/ Geoffrey P. Wermuth  
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**ASSENTED TO:**

PLAINTIFFS,

MICHAEL WESSON; THOMAS WOODS;  
and COMMONWEALTH SECOND  
AMENDMENT, INC.

By their attorney,

/s/ Jeffrey T. Scrimo  
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DEFENDANTS,

TOWN OF SALISBURY, a municipal  
corporation; THOMAS FOWLER, Chief of the  
Town of Salisbury Department of Police

By their attorneys,

/s/ Janelle M. Austin  
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DEFENDANT/INTERVENOR,

COMMONWEALTH OF  
MASSACHUSETTS

By its attorney,

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CERTIFICATE OF COMPLIANCE WITH L.R. 7.1(A)(2)

Pursuant to Local Rule 7.1(A)(2) of the United States District Court for the District of Massachusetts, counsel for the defendants hereby certifies that she conferred with counsel for the plaintiffs regarding the within motion and that the plaintiffs and Commonwealth have assented to the within Motion. /s/ Janelle M. Austin

CERTIFICATE OF SERVICE

I, Janelle M. Austin, certify that the above document will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be served upon any party or counsel of record who is not a registered participant of the Court's ECF system upon notification by the Court of those individuals who will not be served electronically. /s/ Janelle M. Austin

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